

CHAPTER 23-09.4 RESIDENTIAL CARE FOR AUTISTIC CHILDREN

23-09.4-01. Definitions. In this chapter unless the context otherwise requires:

1. "Autism" means a brain disorder that may prevent understanding of what a person sees, hears, or otherwise senses and is conceptualized as a behavioral syndrome with multiple biological manifestations.
2. "Autistic-like" means exhibiting one or more of the characteristics of autism.
3. "Department" means the state department of health.
4. "Residential care facility for children with autism or autistic-like characteristics" means a living facility providing twenty-four-hour assistance for five or more children not related by blood or marriage to the operator through a multidisciplinary approach including a medical diagnosis of autism or autistic-like characteristics.
5. "Residential care giver" means an individual who routinely provides assistance with activities of daily living or direct care services in implementing the treatment plan, behavior management, or education to residents in a residential care facility for children with autism or autistic-like characteristics.

23-09.4-02. Department to establish standards - Licensing - Inspection. The department shall establish standards for the licensure of residential care facilities for children with autism or autistic-like characteristics, regularly inspect the facilities, and grant annual licenses to the facilities that meet the established standards. Upon the request of the department, the state fire marshal shall inspect any facility seeking licensure, or any licensed facility, and shall report the inspection results to the department.

23-09.4-03. License required - Term - Revocation. No person may operate or manage a residential care facility for children with autism or autistic-like characteristics unless the facility has been licensed by the department. The license must state the name of the owner or manager of the facility, its location, and the maximum number of persons who may reside in the facility at any time. The license is not valid for more than one year. Any license may be revoked by the department for violation of this chapter or the rules adopted by the department.

23-09.4-04. Method of providing service. A residential care facility for children with autism or autistic-like characteristics must be specifically designed, arranged, and staffed to provide twenty-four hour assistance with activities of daily living in a homelike environment in response to the individual needs of the residents. A residential care facility for children with autism or autistic-like characteristics must provide or make arrangements for diagnostic and treatment services, behavioral management, and educational services to enable residents to attain or maintain their highest practicable level of functioning.

23-09.4-05. Records. The owner or manager of a residential care facility for children with autism or autistic-like characteristics must keep a record of every individual admitted to the facility, in the manner and form prescribed by the department.

23-09.4-06. Violations - Injunction. The department shall prosecute all violations of this chapter. The department may apply to the district court of the county in which the residential care facility for children with autism or autistic-like characteristics is located, for a temporary or permanent injunction restraining any person from conducting, managing, or operating a facility without a license as required by this chapter.

23-09.4-07. Authority to adopt rules. The department may adopt rules necessary to carry out its responsibilities under this chapter.

23-09.4-08. Penalty.

1. Any person who operates or manages a residential care facility for children with autism or autistic-like characteristics without first obtaining a license as required by this chapter is guilty of a class B misdemeanor.
2. Any person who violates any provision of this chapter or any rule adopted under this chapter may be assessed a civil penalty not to exceed one thousand dollars for each violation and for each day the violation continues, plus interest and any costs incurred by the department to enforce this penalty. The civil penalty may be imposed by a court in a civil proceeding or by the state health officer through an administrative hearing under chapter 28-32. The assessment of a civil penalty does not preclude the imposition of other sanctions authorized by rules adopted under this chapter.